HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 2822(S/S)01:
(Old no. 3523/2000)

1. Pitamber Joshi S/o Sri Hira Ballabh Joshi,
2. Madan Mohan Singh S/o Sri Sher Singh,
3. Chandra Shekhar Tewari S/o Sri Ram Dutt Tewari,
4. Mohan Ch. Tewari S/o Sri Shambu Dutt Tewari,
5. Keval Chandra S/o Sri Durga Prasad,
6. Pandev Bahtt S/o Sri Narottam Bhatt,
7. Vishu Dutt Bahtt S/o Sri Khyali Ram Bhatt,
8. Girish Ch. Bhatt S/o Sri Khayli Ram Bhatt,
9. Gopal Ram S/o Sri Het Ram
   All above working in Janta Uchchatar Madhyamik Vidhyalaya, Chhanagolu, Post Chhanagolu, District Almora. --- Petitioners.

Vs.

1. State of U.P. through Secretary,
   Education Department U.P. Lucknow,
2. Basic Shiksha Parishad,
   U.P. Allahabad through its Secretary,
3. District Basic Education Officer,
   District Almora,
4. Finance and Account Officer,
   Basic Shiksha, Almora. ----Respondents

Sri Rajendra Dobhal, learned counsel for the petitioners.
Learned Standing Counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Rajendra Dobhal, learned counsel for the petitioners and learned Standing Counsel respondents.

2. By means of this writ petition the petitioner has prayed to issue a writ, order or direction in the nature of mandamus commanding the respondents to make the payment of salary to the petitioners according to the Provisions of U.P. Junior High School payment of salary of teachers and other employees Act

1978 w.e.f. July 1999 and continue to make payment of salary till the Institution comes in grant in aid list as High School.

3. Submission of the learned counsel for the petitioner is that the petitioners were working as teacher in the Janta High School, Post Chhanagolu, district Almora. The petitioners were duly selected as Teachers and their selection was approved by the Competent authority and were getting salary under 1979 Act at the time when the Institution was upgraded to High School. However, after up-gradation of the Institution, the respondents stopped payment of salary to the petitioners.

4. On 28.01.2000, the Allahabad High Court passed an order which reads as under:-

"Connect it with writ petition no. 3403 of 1998. The respondents 1 and 4 are represented by the learned Standing Counsel whereas Sri R.K. Tripathi, Advocate has put in appearance on behalf of the respondents no. 2 & 3. They pray for and are granted four weeks to file counter affidavit. Rejoinder affidavit may be filed within one week thereafter. List it after expiry of the aforesaid period.

Until further orders of this Court or until the Institutions is brought within the purview of U.P. Act no. 24 of 1971 whichever is earlier, the respondents shall pay salary to the teachers and employees of the Institution provided the teachers and employees are approved and they were getting salary under 1979 Act at the time of up-gradation of the Institution."

5. The petitioners have also relied upon the judgment of the Allahabad High Court in the case of **Ram Singh Savita and others vs. State of U.P. and others reported in UPLBEC 1994 (3) page-2037** wherein the Court directed the respondents to release arrears of salary of the petitioners in

accordance with the provisions of U.P. Act no. 6 of 1979 till such time the Institution is not covered by the Provision of U.P. Act no. 24 of 1971.

6. No counter affidavit has been filed by the respondents.

7. In the circumstances aforesaid, in case, the petitioners were approved teachers and were getting salary prior to up-gradation of the Institution under 1979 Act, they shall be paid salary till the Institution comes under U.P. Act no. 24 of 1971.

8. With this observation, the writ petition is finally disposed of . No order as to costs.

(M.M. Ghildiyal, J.)

April 18, 2006:

NCM: